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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of *2000 Biennial Regulatory Review—* *Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3.*	CC Docket No. 00-199 (FCC 00-364)

REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

Pursuant to Sections 1.49, 1.415, and 1.419 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedures, 47 C.F.R. Section 1.49, 1.415, and 1.419 (2000), the National Association of Regulatory Commissioners ("NARUC") respectfully submits these comments replying to comments filed earlier on the FCC's Notice of Proposed Rulemaking ("NPRM") adopted October 12, 2000, and released October 18, 2000 [FCC 00-364].

NARUC, in its initial comments filed December 21, 2000, supported the FCC's proposed account streamlining measures coupled with the additional accounts suggested by the States. We also expressed concerns with the United States Telephone Association's ("USTA") proposals regarding the elimination of Class A accounts, cost allocations, affiliate transactions, expense limits, and continuing property record requirements, and the elimination of practically all current reporting requirements.

These comments focus on replying to specific initial comments filed by other parties.

I. Discussion

Continued FCC and State Coordination is in the Public Interest

NARUC appreciates the FCC's continued willingness, as well as its historical efforts, to help synchronize accounting and reporting requirements. We urge the FCC to continue this cooperative effort. Such cooperation is in the public interest as it enables federal and State regulators to effectively work on issues of joint interest, such as universal service, and avoids the establishment of unnecessary and redundant accounting and reporting requirements.

The Record does not Support USTA's Proposal

Predictably, the Independent Local Exchange Carrier's ("ILEC") initial comments support USTA's proposal to further streamline the accounting and Automated Reporting Management Information System ("ARMIS") requirements by eliminating Class A accounting altogether, eliminating the continuing property records ("CPR") requirements, eliminating forecasts for use in allocating joint costs between regulated and nonregulated activities, and eliminating the majority of the ARMIS reports including all State-by-State reporting requirements.

Unfortunately, the ILECs' comments do not eliminate, or even realistically address, the concerns raised in NARUC's initial comments. Further, the ILECs make dubious claims about the costs of compliance with the FCC's proposed accounting and reporting requirements (which by the FCC's estimation would provide significant reductions to the current burden), and fail to completely address the public benefit loss that will undoubtedly ensue if the USTA's proposals are implemented.

Additionally, many of the ILECs argue that the FCC's Biennial Review process does not permit the adding of accounts, if needed. NARUC disagrees. On its face, the ILEC argument ignores hornbook law on the scope of an agency's authority in a notice and comment rulemaking procedure. Moreover, the stated goal of Biennial Review proceedings is to eliminate unnecessary rules and streamline requirements where appropriate. Frequently in such proceedings, the substitution of a more streamlined procedure for an existing regime requires the creation of different, less burdensome requirements. In this proceeding, the elimination of about one-fourth of the Class A accounts, coupled with adding the few accounts needed to protect the public interest in the face of such revisions, accomplishes the stated goal.[1]

Many ILECs initial comments also suggest the FCC has lost sight of the ultimate goal of deregulation. We disagree. Currently, there is very little competition in the local exchange market. Until such time as there is truly a competitive market, the NARUC proffers that current standards in accounting and reporting data are essential in the monitoring of the network at the federal level. Furthermore, the need for these accounting and reporting requirements is apparent from the current record in this proceeding. (See, for example, the initial comments filed by the Rural Utilities Service, the Ohio Consumers' Counsel and the National Association of State Utility Consumer Advocates, the Montana Public Service Commission, the Wyoming Public Service Commission, the Idaho Public Utilities Commission, the Wisconsin Public Service Commission, the State of New York Department of Public Service, the Utah Public Service Commission and the Utah Division of Public Utilities, the Maryland Public Service Commission, the Oregon Public Utility Commission, the Florida Public Service Commission, the North Carolina Utilities Commission - Public Staff, the Nebraska Public Service Commission, the Washington Utilities and Transportation Commission, the Regulatory Commission of Alaska, the General Services Administration, WorldCom Inc., and AT&T.)

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1 *If taken to its logical conclusion, the ILEC argument requires the FCC to abandon the proposal to eliminate about one-fourth of the Class A accounts if the only way to protect the public interest is to simultaneously add a few accounts.*

Finally, the FCC should take a cautious approach to the elimination of accounting and reporting requirements. It is these safeguards that, under several provisions of the Telecommunications Act of 1996 ("1996 Act"), were deemed necessary to promote competition in the local exchange and access markets. Elimination of accounting safeguards before competition has sufficiently begun to develop will provide certain opportunity for cross-subsidization and non-cost based UNE and interconnection pricing - consequences that will unquestionably hamper the development of competition in the exchange access and local exchange markets. The ultimate goal of deregulation should not occur until there is evidence that customers have sufficient access to alternative providers of exchange access and local exchange services. At that time, substantial reductions in regulatory reporting and accounting safeguards should be considered since pricing will be largely determined by the forces of a competitive marketplace.

Specific Modifications to the Part 32 Accounting Rules

Many of the carriers argue that Class A accounting is no longer needed and that the additional accounts proposed by the States are cost prohibitive. Sprint Corporation argues that the States' request for more account detail involves practical problems and should be rejected based on public policy considerations.

NARUC asserts that the FCC's proposal to streamlining the Class A accounting system, coupled with the additional detail requested by the States, is necessary to enable both the FCC and the States to monitor the network and the state of competition. Further, contrary to the ILECs' comments, such detail is in the public interest.

NARUC agrees with the streamlined Class A level detail, as proposed by the FCC; however, there are a few areas where additional detail, as proposed by the States, will be necessary to ensure that the accounting system reflects recent technological changes and allow both federal and State regulators to carry out their mandates under the 1996 Act.

The FCC's proposal for Class A streamlining generally maintains sufficient detail for regulators, but some crucial areas are ignored in plant, expense, and revenue accounts. For example, we strongly recommend that the FCC create a new account for packet and ATM switches to reflect the planned wide-scale deployment of such facilities. For expense and revenue accounts, we strongly recommend the addition of accounts for universal service funding, reciprocal compensation, resale, and collocation activities. These few additional accounts, along with the proposed Class A structure, are necessary for both federal and State regulators to appropriately determine universal service funding levels, pole attachment rates, customer rates in rate of return States, and UNE and interconnection rates.[2] If carriers are allowed to move to Class B accounting, *only* the ILECs would have the detailed data critical to evaluate the appropriate rates and support levels for these federal and State activities. State and Federal regulators would lack access to the critical data needed to assess appropriate rates and funding levels.

Second, it is simply not true, as the ILECs argue, that no accounting and reporting requirements are necessary under a price cap/"CALLS" regulatory regime. Carriers may still justify rate increases based on low-end adjustment claims and other measures that rely on cost data that are in place under current federal and State regulatory schemes.

Moreover, the accounting and reporting requirements are clearly necessary for monitoring UNE pricing and universal service support, both critical elements in promoting competition and connectivity as required by the 1996 Act.

The need for accounting and reporting can be easily demonstrated with a few examples. Case in point: significant investment and cost shifts from local transport and switching to common line can occur simply by turning a software toggle off in a host office thereby rendering a smart remote line module into a dumb remote or a digital line concentrator ("DLC"). When this occurs, the supporting investments are re-categorized

[2] *Some States have taken advantage of The Pole Attachment Act and supplanted the FCC in regulating pole attachments. States generally develop these rates using a formula based on Class A accounting data. If carriers are allowed to move to Class B accounting, neither the FCC, States, nor competitors will have the data necessary to evaluate these rates.*

in jurisdictional separation studies which result in lower switched and transport traffic sensitive access rates and higher carrier common line non-traffic sensitive revenue requirements. The carriers will argue that this analysis is a moot point under the FCC and State price cap regulation. However, the recent FCC universal service fund ("US") and subscriber line charge ("SLC") inquiries and cost models rely heavily upon this investment and cost shift to develop loop costs. The forward-looking cost models show the DLC network, while the real switched network still utilizes smart remote line modules for switching and concentrating traffic sensitive network usage. Many of these network-switching locations have received common language location identifier ("CLLI") codes but are not reflected in the national rating guide. Moreover, the cost proxy models have been fostered as appropriate for State unbundled network element ("UNE") costing/pricing and access charge proceedings. Many of the parties in such State proceedings do not have a strategic interest in addressing this cost shifting issue. ILECs achieve a more stable revenue flow based upon non-traffic sensitive end user pricing. Interexchange carriers ("IXCs") achieve lower access charges. Businesses benefit through lower toll rates and increased earnings. Tax revenues are increased. Competitive Local Exchange Carriers ("CLECs") that perceive an opportunity on the basis of this uneconomic model are building parallel facilities to clusters of end users now frustrated with a continuous array of increasing line items on their bill.

This example of market dominance illustrates how a simple definition or principle, when carried to an extreme, can distort or achieve predetermined outcomes. One of the SLC guiding principles suggests that end users should bear the entire cost of non-traffic sensitive elements, but this fails to recognize the fact that technology can extend the loop more than 100 miles from a switch. A rational approach to pricing should still be based upon sound engineering practices that recognize certain socioeconomic break points in network design and utilization. Shared use of common facilities is a more economic approach to network utilization. The network is using traffic sensitive resources at the first point of concentration, which should be aligned with the pricing of transport, switching and carrier common line rates as close to the customer's premise as practicable rather than vice versa.

Therefore, as circumstances dictate, changes in monitoring criteria need to be enacted to analyze the network structure and migrations from traditional or forecasted norms. Under Class B accounting, this information would no longer be available to track or to monitor. The FCC should ensure that sufficient controls are in place to monitor possible cost shifting that can have detrimental ratepayer consequences.

Finally, as noted in our initial comments, the FCC's current Class A system requires carriers to maintain fewer than 300 accounts. This is a minimal requirement given the 2,000 to 3,500 accounts that each of the ILECs maintain for their own purpose and poses a much smaller regulatory burden than the ILECs claim. Further reductions to the current accounting and reporting requirements will provide additional relief to the carriers. The additional detail sought by the States is a relatively minor requirement in comparison with the overall reduction in requirements being proposed in this proceeding. NARUC strongly believes that the FCC's proposed streamlining, coupled with the States proposal, will provide significant reductions and streamlining of the current accounting and reporting requirements, while protecting the public interest - the ultimate goal of this proceeding.

At this time, Additional Relief for Mid-Sized ILECs is not Warranted

The FCC has already reduced the reporting requirements by allowing the mid-sized ILECs to report on a Class B level. These recent relief measures and the proposal in the instant NPRM to increase the revenue threshold to $200 million on an operating company level are more than adequate. An increase in the revenue threshold to $7 billion at a holding company level will exempt all but a very few from ARMIS filing requirements. Without the financial and network information filed in the ARMIS reports and without the Part 32 accounting information, States will be severely hampered in carrying out their regulating duties and responsibilities. Therefore, NARUC urges the FCC to not grant further reporting relief to the mid-sized ILECs at this time.

However, should the Commission deem it necessary to incorporate a "two percent factor" into its recently revised definition of a mid-sized ILEC, as suggested by some respondents to the instant NPRM, the Commission should seek to better define "access lines" in light of the newly emerging and ever-changing competitive and technological marketplace. Unless a standard definition of "access lines" is established, there will be too much subjectivity for carriers in reporting.

II. CONCLUSION

In conclusion, the NARUC reiterates its position that the FCC's proposal to streamline Class A accounting requirements, coupled with the States proposal for additional detail, are in the public interest and provide information needed to monitor the network at the federal level. Together, these proposals will provide the FCC and the States with information and data necessary to, *inter alia*, analyze and evaluate ILEC cost studies prepared for determining universal support, UNE prices, and interconnection prices as well as for the determination of pole attachment rates. Moreover, this additional detail will allow the FCC and the States to monitor and track possible cost shifting that may have a detrimental customer impact. These public benefits more than offset any ILEC burden.

As for mid-sized carriers, the reduced accounting and reporting requirements made in the Accounting Reductions Report and Order and the ARMIS Reductions Report and Order, along with the additional Class A reporting reform measures and the proposed increase in the revenue threshold to $200 million, appear to be more than adequate relief measures at this time. However, if the FCC deems it necessary to incorporate a "two percent factor" into its recently revised definition of a mid-sized ILEC, as suggested by some respondents to the instant NPRM, the Commission should seek to better define "access lines" in light of the newly emerging and ever-changing competitive and technological marketplace. Unless a standard definition of "access lines" is established, there will be too much subjectivity for carriers in reporting.

NARUC respectfully requests that the FCC carefully consider and implement the positions outlined in these comments.

Respectfully Submitted,

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